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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,149	10/20/2003	Hiroshi Sekine	14225.7US01	5893
23552	7590	07/12/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			SCHWARTZ, CHRISTOPHER P	
			ART UNIT	PAPER NUMBER
			3683	
DATE MAILED: 07/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,149

Applicant(s)

SEKINE, HIROSHI

Examiner

Christopher P. Schwartz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

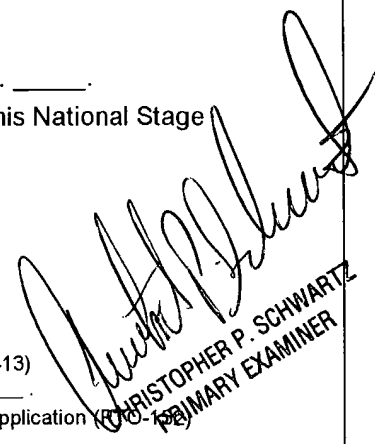
- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.


CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement has been received and considered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2 the phrase "... for changing the reference value to a side ..." is not understood. What "side" is this? Further, it is unclear how the value is "changed" per se during emergency braking. Is this value "changed" permanently?

The phrase "or during a period from the detection of an emergency avoidance steering operation.... detection has ended" is also not understood. Is the reference value changed during this period also?

Regarding claims 3 and 4 it is unclear whether brake assist is being performed during the emergency avoidance steering operation. See for example line 10 of claim 1 and the second to the last line of claim 3.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuda in view of Sugimoto et al.

Regarding claim 1 Matsuda discloses a vehicle brake system capable of brake assist having an emergency avoidance steering operation detection means (see sensors S1-S7 plus electronic control unit U) and an actuator control means 4.

Matsuda lacks a showing of a brake operation detection means for detecting a braking operation by the vehicle driver.

Sugimoto discloses such a means at S3-S5 and M4 and M5.

One having ordinary skill in the art at the time of the invention would have found it obvious to have provided the device of Matsuda with a braking operation detection means, as taught by Sugimoto, for increased capability of avoiding objects in the vehicles path during emergency braking. See column 1 of Sugimoto.

Regarding claim 2, as best understood, just about any of the parameters sensed to detecting sudden or emergency braking in Sugimoto et al. may be interpreted as "based on a comparison between a parameter and a reference value in relation to the amount of braking operation by the driver". Further, as best understood, the "reference value" (i.e. value sensed from the stroke sensor, braking will detecting

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means or emergency degree presuming means) may "change" (as detected by the ECU) dependent upon the level of braking by the driver for optimal functioning of the brake assist control in stabilizing the vehicle or during differing road conditions (see col 6 last paragraph of Matsuda, for example). It could also be considered to "change" during repeated instances of emergency braking.

Regarding claims 3 and 4 note Matsuda, as modified, discloses steering torque and the variation of steering torque and threshold values thereof to control the braking force. See col. 6,7,8). Applicant's claims are considered simply to be an obvious variation of this procedure.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 703-308-0576. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps
7/6/04

CHRISTOPHER P. SCHWARTZ
PRIMARY EXAMINER
